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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,219	09/16/2004	Michihiro Ota	040475	5562
23850 7590 03/25/2008 KRATZ, QUINTOS & HANSON, LLP 1420 K Street, N.W. Suite 400 WASHINGTON, DC 20005				
EXAMINER				
SHUMATE, PAUL W				
ART UNIT		PAPER NUMBER		
3693				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/507,219

**Applicant(s)**

OTA ET AL.

**Examiner**

PAUL SHUMATE

**Art Unit**

3693

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☒ Claim(s) 1,4,6,9 and 11-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :16 September 2004, 8 March 2006.

## **DETAILED ACTION**

### **Status of Claims**

1. This action is in reply to the Application filed on 9/16/2004. Claims 1-13 are currently pending, have been examined, and stand rejected.

### **Claim Objections**

2. Claims 1, 4, 6, 9, and 11-13 objected to because of the following informalities:

Claims 1, 6, 11, and 13 recite various forms of the following limitations:

- "the sales of the commodities"
- "the sales of a commodity"
- "the sales of the commodity"
- "the sales of commodity"
- "the commodity sales"

In different recitations of the above limitations, in various contexts throughout claims 1, 6, 11, and 13, it is unclear if Applicant means "multiple sales of different commodities," "multiple sales of one type of commodity," "multiple sales of one single commodity," or something entirely different. The examiner suggests rewriting these limitations to more precisely convey Applicant's intended meaning.

Claims 4, 6, 9, 12, and 13 use the word "it" to refer back to other features or components of Applicant's invention recited at earlier points in the same limitations. The examiner suggests rewording the claimed limitations to specifically recite the actual features or components Applicant intended to reference through the current use of the word "it."

Appropriate correction is required.

**Claim Rejections - 35 USC § 112**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 and 13 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 6-11, and 13 recite limitations which lack proper antecedent basis in their respective claims.

Claim 1 recites:

- "a second code obtaining means" in the 6<sup>th</sup> limitation without first reciting "a first code obtaining means"
- "a third code issuing means" in the 8<sup>th</sup> limitation without first reciting "a second code issuing means"
- "the sales of the commodities" in the 3<sup>rd</sup> limitation

Claim 6 recites:

- "the sales of a commodity" in the 1<sup>st</sup> limitation
- "the sales of commodity" in the 5<sup>th</sup> and 9<sup>th</sup> limitations
- "the commodity selling permission" in the 6<sup>th</sup> limitation
- "the display section" in the 7<sup>th</sup> and 8<sup>th</sup> limitations
- "the image reading section" in the 8<sup>th</sup> limitation
- "the third code issuing means" in the 11<sup>th</sup> limitation

Claim 7 recites:

- "The cashless vending method according to Claim 6" in the preamble
- "the display section" in the 1<sup>st</sup> limitation

Claims 8, 9, and 10 recite:

- "The cashless vending method according to Claim 6" in their preambles

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Claim 11 recites:

- "a second code obtaining means" in the 2<sup>nd</sup> limitation without first reciting "a first code obtaining means"
- "a third code issuing means" in the 4<sup>th</sup> limitation without first reciting "a second code issuing means"

Claim 13 recites:

- "a second code issuing means" in the 3<sup>rd</sup> limitation
- "the cancellation" in the 4<sup>th</sup> limitation
- "the commodity sales" in the 4<sup>th</sup> limitation
- "the received third code" in the 4<sup>th</sup> limitation

There is insufficient antecedent basis for these limitations in their respective claims.

Claims 2-5, 8, and 10 recite the term "has" to indicate additional limitations in the claims. However, it is unclear as to whether Applicant intends for the word "has" to mean "comprises" or "consists of." The transitional term "comprising", which is synonymous with "including," "containing," or "characterized by," is inclusive or open-ended and does not exclude additional, unrecited elements or method steps. The transitional phrase "consisting of" excludes any element, step, or ingredient not specified in the claim. For the purpose of this examination, the examiner has interpreted all uses of the term "has" to be equivalent to "comprises."

Please examine all pending claims and, where required, correct appropriately.

**Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim(s) 1-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Whigham, U.S. Patent No.: 6,584,309, in view of Ogasawara, U.S. Patent No.: 6,512,919, further in view of Official Notice.

Examiner's Note: The Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Independent claims are examined together, since they are not patentable distinct. If applicant expressly states on the record that two or more independent and distinct inventions are claimed in a single application, the Examiner may require the applicant to elect an invention to which the claims will be restricted.

As per claims 1-13, Whigham teaches a cashless vending system which "eliminates the need for currency for a vending machine and also eliminates the need for a dedicated online connection between the vending machine and the issuer of a credit card or a debit card. Instead the system and method of [Whigham] allows a consumer to purchase a product from an automatic vending machine by using the consumer's cellular telephone, personal digital assistant (PDA), or similar wireless communication device as a link between the provider of the products in the vending machine and the vending machine (see at least column 1 lines 37-47)." Whigham's system and method comprise at least:

- a vending machine for vending commodities, a portable communication terminal used to purchase commodities from the vending machine, and a center device for managing the sales of the commodities from the vending machine using the portable communication terminal (see at least column 1 lines 48-53)

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- wherein the vending machine issues a code about the sales of a commodity, which a user desires to purchase (see at least column 2 lines 58-63, column 3 lines 5-9, and column 4 lines 21-34), which is inputted into the portable communication terminal and then sent from the portable communication terminal to the center device (see at least column 2 line 64 to column 3 line 3 and column 4 lines 10-34)
- verifying the portable communication terminal by the center device according to communications with the portable communication terminal (see at least column 6 lines 4-6 and column 6 lines 37-41)
- performing a settlement processing of the sales of commodity by the center device according to the first code sent from the portable communication terminal (see at least column 3 lines 16-31, column 4 lines 13-15, and column 6 lines 27-30)
- generating a vend code about the commodity selling permission by performing a prescribed processing of the first code by the center device and sending it to the portable communication terminal (see at least Fig. 2-212, column 1 lines 44-46, column 3 lines 12-15, and column 4 lines 17-19)
- displaying the vend code, which is sent from the center device, on the display section of the portable communication terminal (see at least column 2 lines 2-7, column 2 lines 26-30, and column 7 lines 25-27) and presenting the vend code to the vending machine (see at least column 2 lines 15-32 and column 4 lines 61-64)
- controlling the sales of commodity in the vending machine according to the vend (see at least column 4 lines 17-19, column 5 lines 39-50, and column 7 lines 31-36)

Whigham does not explicitly teach:

- the portable communication device or the vending machine comprising an external or internal image reading means (camera)
- reading and transmitting codes by reading an image representing a code, displayed on a first device, using image reading means (a camera) on a second device



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- the vending machine comprising a change return lever which when operated cancels the current transaction
- issuing a cancellation code, cancelling the sales of the commodity from the vending machine, in response to an operation by the user of the vending machine (operate change lever) and sending the code to the center device canceling the settlement processing by the center device

Ogasawara, however, teaches an electronic shopping system that facilitates purchase transactions via a wireless videophone which comprises at least a camera, an lcd display, and a downloaded program which utilizes the phone's camera and display capabilities to read product codes and carryout payment transactions (see at least column 2 line 60 to column 3 line 30). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to incorporate the teachings of Ogasawara with the teachings of Whigham to create a vending system which allows users to make purchase transactions via their cellular telephone using the phone's camera and lcd display to input and display vend codes used to execute payment transactions because while this eliminate the need for currency and the need for a dedicated connection between the vending machine and a credit/debit card issuer or a billing agency (see at least column 1 lines 37-41, column 5 lines 46-50, and column 7 lines 43-48 in Whigham) it also provides users with their own, inexpensive, personal shopping device (see at least column 2 lines 33-57 in Ogasawara).

The examiner further takes Official Notice that it is old and well known in the art that vending machines traditionally include a change return lever which when operated cancels the current open transaction. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to incorporate a means for cancelling an open transaction into the vending system of Whigham because this allows users to save their money or switch to a more preferred item selection that halfway through the transaction process in case they change their mind about what they want to purchase. This has the added benefit of keeping customers happy, which can benefit the vending system company as well.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Shumate whose telephone number is 571-270-1830. The examiner can normally be reached on M-F 8:30 AM - 6:00 PM, EST alt Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/  
Supervisory Patent Examiner, Art Unit 3693

Name:	Paul W. Shumate
Title:	Patent Examiner
Date:	03/17/08
Signature:	/Paul Shumate/ Examiner, Art Unit 3693